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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,641	10/14/2005	Alexander Gordon James	T7096(V)	1490
201	7590	11/01/2006		EXAMINER
UNILEVER INTELLECTUAL PROPERTY GROUP 700 SYLVAN AVENUE, BLDG C2 SOUTH ENGLEWOOD CLIFFS, NJ 07632-3100			RAMACHANDRAN, UMAMAHESWARI	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/553,641	JAMES, ALEXANDER GORDON	
	<b>Examiner</b>	<b>Art Unit</b>	
	Umamaheswari Ramachandran	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

Claims 1-15 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noda et al (JP 04-169511) in view of Kligman et al (U.S. 4,355,028).

Noda et al. teaches resorcinol derivatives in the cosmetic composition for the common acne. The composition of formula (I) in Noda et al. where R is 2-12 straight chain or branched alkyl, R<sub>1</sub>, R<sub>2</sub>, R<sub>4</sub> is H and R<sub>3</sub> is OH in an amount of at least 0.1 – 2 % by weight (p 54, col.1 structures no. 3-7, col. 2, lines 26-28) in ethanol and sterile water (table 4) meets the limitations of the formulas (I) and (II) in claims 1 and 5 and also addresses the claims 5, 6, 7 and 8. The reference does not teach another anti-acne agent in the composition.

Kligman et al. teaches a method of topical application in young adults for the treatment of acne vulgaris comprising a composition of salicylic acid 3-7% by weight (col. 2 lines 59-62), benzoyl peroxide 3-20% by weight (col. 2 lines 62-64), ethanol, water and surface-active agent 2-6% by weight (col.5 lines 1-3) (example 1, 3). This addresses claims 3-4, 9-11 and 13. The reference further teaches that benzoyl peroxide is an effective keratolytic and antibacterial agent in the treatment of acne (col. 2, lines

35-36) thus addressing claim 2. The reference teaches the addition of other ingredients such as EDTA, polyacrylamide, methylcellulose, magnesium aluminum silicate etc to the composition comprising benzoyl peroxide and salicylic acid. This addresses claim 12. The reference also teaches that benzoyl peroxide is antimicrobial and suppresses the acne bacillus, Propionibacterium acnes (col.2 lines 9-11). This addresses claims 14 and 15.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine Noda et al. and Kligman et al. teachings to prepare an anti-acne composition by combining two anti-acne agents such as alkyl resorcinol with one further anti-acne agent, salicylic acid or benzoyl peroxide to achieve enhanced therapeutic effects.

The examiner respectfully points out the following from MPEP 2144.06: "It is **prima facie obvious** to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose....[T]he idea of combining them flows logically from their, having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069,-1072 (CCPA 1980).

### ***Conclusion***

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umamaheswari Ramachandran whose telephone

number is 571-272-9926. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SREENI PADMANABHAN  
SUPERVISORY PATENT EXAMINER